



**MICHAEL N. FEUER**  
CITY ATTORNEY

REPORT NO. R 18 - 0 0 6 4  
MAR 02 2018

**REPORT RE:**

**REVISED DRAFT ORDINANCE ADDING ARTICLE 25 TO CHAPTER 1, DIVISION 10  
OF THE LOS ANGELES ADMINISTRATIVE CODE TO REQUIRE A PROJECT  
LABOR AGREEMENT FOR PROPOSITION HHH FUNDED PROJECTS**

The Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, CA 90012

Council File No. 17-0090-S1

Honorable Members:

On December 1, 2017, this Office transmitted a draft ordinance in the above referenced matter for City Council consideration (City Attorney Report No. R17-0405). On February 20, 2018, the City Council requested this Office to submit a revised draft ordinance to require a project labor agreement for any Proposition HHH development project receiving bond funding beginning in Fiscal Year 2018. As requested, we have made that change in the revised draft ordinance, approved as to form and legality, and incorporated other technical corrections.

Council Rule 38 Referral

A copy of the revised draft ordinance was sent, pursuant to Council Rule 38, to the Bureau of Contract Administration, with a request that all comments, if any, be presented directly to the City Council when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Jaime Suarez at (213) 978-2697. He or another member of this Office will be present when you consider this matter to answer questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney



By

DAVID MICHAELSON  
Chief Assistant City Attorney

DM:JS:ac  
Transmittal

**ORDINANCE NO. \_\_\_\_\_**

An ordinance adding Article 25 to Chapter 1, Division 10 of the Los Angeles Administrative Code to require that Proposition HHH funded projects include a project labor agreement that promotes the hiring and continued employment of local residents, including those that may be classified as transitional or disadvantaged workers.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. A new Article 25 is added to Chapter 1, Division 10 of the Los Angeles Administrative Code to read as follows:

**CHAPTER 1, ARTICLE 25**

**PERMANENT SUPPORTIVE HOUSING AND FACILITIES  
INFRASTRUCTURE STABILIZATION ORDINANCE**

**Sec. 10.51. Purpose.**

In November 2016, the voters of the City of Los Angeles approved Proposition HHH. Proposition HHH authorizes the City to issue \$1.2 billion in bonds over ten years, the proceeds of which are to be used to provide safe, clean and affordable housing for the homeless and for those in danger of becoming homeless, such as battered women and their children, veterans, seniors, foster youth and the disabled; and to provide facilities to increase access to mental health care, drug and alcohol treatment, and other services.

To achieve its goal of creating up to 10,000 permanent supportive housing units to address citywide homelessness and the homeless housing shortage, the City anticipates providing financial assistance to private firms to construct the housing development and improvement projects authorized by Proposition HHH. As part of the implementation of this program, the City desires to reinvest into its local neighborhoods and residents by training and employing them on Proposition HHH funded projects. This article, also referred to as the Permanent Supportive Housing and Facilities Infrastructure Stabilization Ordinance, advances the interests of the City by promoting the use of project labor agreements for those Proposition HHH funded construction projects that meet certain criteria.

Project labor agreements are the preferred tool to ensure that important proprietary goals of the City are achieved, including completion of construction projects on-time and within budget by minimizing labor misunderstandings, grievances and conflict along with emphasizing worker safety.

Project labor agreements also advance the City's interest by ensuring that unemployed and under-employed residents will receive employment opportunities at construction projects financed in part or whole by the City. Over the years, project labor agreements have proven to be an excellent mechanism to promote the hiring of unemployed and under-employed City residents. These agreements have proven their effectiveness in targeting construction employment and training opportunities to mitigate the harm caused by geographically concentrated poverty.

Construction contracts financed in part or whole with City funds are subject to the State's prevailing wage laws, or in some instances, the Federal Davis-Bacon wage statute, each of which provides covered workers with greater wages and benefits than otherwise required by law. Increasing access to employment opportunities where prevailing wages are paid is one way for the City directly to combat poverty and stimulate economic reinvestment.

In addition, having the opportunity to work on a contract or project with City financial assistance affords workers valuable experience which can be used to garner future employment. The City has an interest in expanding the field of competent construction workers to address the problems associated with a significant local unemployed, under-employed and unskilled workforce. The City serves this interest by expanding the opportunities workers have to be referred for employment by private contractors who receive financial assistance from the City.

Further, many unemployed and under-employed City residents are interested in working in and learning a construction trade. Young people constitute a significant portion of this City's unemployed and under-employed residents. Experience indicates that unemployment and under-employment contribute to devastating social burdens, including a sustained large population of unskilled workers, increased crime and increased need for costly social services. The City, as a principal provider of social support services, has an interest in promoting an employment environment that protects such limited resources. In creating a program that helps link contractors with potential construction workers, the City serves this interest and provides greater opportunities for employment on Proposition HHH funded construction contracts.

In February 2008, the Economic Roundtable released a study commissioned by the Community Development Department titled, "Concentrated poverty in Los Angeles." The study found that the City had higher rates of concentrated poverty than the nation and the broader Los Angeles region. In fact, "Nineteen percent or over 238,000 of the 1.3 million households in the City were living below the federal poverty threshold in 2000." According to U.S. Census Bureau data, by 2015 the number of households living in poverty increased to 23 percent or over 309,000 of the 1.342 million households in the City.

The Permanent Supportive Housing and Facilities Infrastructure Stabilization Ordinance targets construction employment and training opportunities in ways calculated to mitigate the harm caused by geographically concentrated poverty, to

address unemployment and underemployment in neighborhoods where poverty is concentrated, and to advance the skills of the local labor pool, especially the youth, by maximizing opportunities to earn a prevailing wage.

### **Sec. 10.51.1. Definitions.**

The following definitions shall apply to this article:

(a) **“Apprentice”** means any worker who is indentured in a bona fide construction apprenticeship program registered and approved by the State of California, Division of Apprenticeship Standards (DAS) or in the case of Projects with federal funding, in a bona fide apprenticeship program approved by the US Department of Labor (DOL) and California DAS.

(b) **“Awarding Authority”** means the Housing Community Investment Department of the City (HCIDLA), the City Administrative Officer, or any other governing body, board, officer or employee of the City authorized to award a Contract.

(c) **“City”** means the City of Los Angeles and all Awarding Authorities thereof.

(d) **“Construction”** means construction as well as alteration, demolition, installation and repair work as mandated by the California Labor Code Section 1720(a) (1), and includes maintenance work as mandated by California Labor Code Section 1771.

(e) **“Contract”** means a contract, a letter of agreement issued by the City or other agreement for a Permanent Supportive Housing or Facilities Construction project funded with Proposition HHH bond proceeds.

(f) **“Contractor”** means any individual firm, partnership, owner-operator, or corporation, or combination thereof, including joint ventures, which is an independent business enterprise and which has entered into a Contract with the City or any of its contractors or subcontractors/owner-operators of any tier, with respect to the Construction of any part of any Project Work.

(g) **“Designated Administrative Agency”** or **“DAA”** means the City’s Department of Public Works, Bureau of Contract Administration.

(h) **“Facilities”** means a development project that, upon completion of Construction, is intended to provide supportive services to, or otherwise benefit, those who are homeless or at risk of homelessness, including but not limited to:

(1) Developments to provide assistance and services, such as mental health treatment, health care, drug and alcohol treatment, education and job training;

(2) Temporary shelters, storage space, showers and other facilities to provide supportive services or goods to, or otherwise benefit, those who are homeless or at risk of homelessness;

(3) Infrastructure and landscaping, including utilities, sidewalks and streets to be used in connection with the Permanent Supportive Housing.

(i) **“Local Resident”** means either: (i) an individual whose primary place of residence is in the City and is in a zip code within a 5-mile radius surrounding a project’s location where the annual household income or the individual’s annual household income is less than the County of Los Angeles’ median annual household income; or (ii) an individual whose primary place of residence is within the City and is within a zip code having at least two census tracts (or portions thereof) in which the median annual household income is less than 50 percent of the County of Los Angeles’ median annual household income, and/or at least two census tracts (or portions thereof) where the rate of unemployment exceeds 200 percent of the County of Los Angeles’ unemployment rate as reported by the most recent U.S. Census Bureau data; or (iii) an individual whose primary place of residence is within the City and is within the zip code having at least two census tracts (or portions thereof) in which the median annual household income is less than the County of Los Angeles’ median annual household income and/or at least two census tracts (or portions thereof) where the rate of unemployment exceeds 100 percent of the County of Los Angeles’ unemployment rate as reported by the most recent U.S. Census Bureau data.

(j) **“Permanent Supportive Housing”** or **“PSH”** means residential unit(s) constructed that are strictly for individuals that are homeless or at risk of homelessness due to having an unstable permanent residence location or status, and where such unit(s) are paired with supportive services.

(k) **“Project Work”** means work performed in Construction of a Permanent Supportive Housing or Facilities development subject to the Proposition HHH Project Labor Agreement.

(l) **“Proposition HHH”** means the ballot measure the City of Los Angeles voters approved during the local election in November 2016 that authorizes the issuance of up to \$1.2 billion in general bonds over a ten-year period, to construct up to 10,000 Permanent Supportive Housing units and related Facilities for the homeless or those at risk of homelessness.

(m) **“Transitional Worker”** means an individual whose primary place of residence is within the City and who, prior to commencing work on a Proposition HHH funded project, has been certified as having veteran status; having a documented history of involvement with the criminal justice system; or being homeless. If the Contractor or designated jobs coordinator is not able to

identify an adequate number of workers certified as having veteran status, documented involvement with criminal justice or being homeless, then a Transitional Worker may be an individual facing two of the following barriers to employment: having a household income of less than 50 percent of the Los Angeles County Median Annual Household Income; receiving public assistance; lacking a GED or high school diploma; being a custodial single parent; suffering from long-term unemployment; being emancipated from the foster care system; or being an Apprentice with less than 15 percent of the apprenticeship hours required to graduate to journey level in a state (and federal if necessary) approved program.

**Sec. 10.51.2. Project Labor Agreement for Proposition HHH Developments.**

(a) A Proposition HHH Project Labor Agreement (HHH-PLA) shall be required for any qualifying Permanent Supportive Housing or Facilities project that meets the following thresholds:

(1) Permanent Supportive Housing developments of 65 or more units; or

(2) Facilities with a total development cost of \$5 million or more.

(b) The HHH-PLA shall require that core work staff shall be on the Contractor's active payroll at least 60 days of the 100 working days prior to the award of a Contract.

(c) The HHH-PLA shall specify the number of bids required from subcontractors for each craft of work.

(d) The HHH-PLA shall include a fair and unbiased grievance procedure applicable to potential jurisdictional disputes, work stoppages, interpretation of HHH-PLA policy, or other project related issues.

(e) The HHH-PLA shall be in effect for a term of three years with two optional one year renewals.

(f) The HHH-PLA shall include a hybrid tiered approach for hiring by Contractors incorporating the following three tiers for project radius and zip codes based on socio-economic factors.

(1) Tier 1 – Includes the zip codes within a 5-mile radius surrounding the project's location, containing qualified workers where the annual household income or the qualified worker's annual household income is less than the County of Los Angeles' median annual household income.

(2) Tier 2 – Includes the tier 2 zip codes, as designated in the HHH-PLA, that have at least two census tracts (or portions thereof) in

which the median household income is less than 50 percent of the County of Los Angeles' median annual household income, and/or where the unemployment rate exceeds 200 percent of the County of Los Angeles' unemployment rate as reported by the most recent available U.S. Census Bureau data.

(3) Tier 3 – Includes tier 3 zip codes, as designated in the HHH-PLA, that have at least two census tracts or a portion thereof in which the median annual household income is less than the County of Los Angeles' median annual household income, and/or the unemployment rate exceeds 100 percent of the County of Los Angeles' unemployment rate as reported by the most recent available U.S. Census Bureau data.

### **Sec. 10.51.3. Targeted Hiring.**

The HHH-PLA shall include provisions that obligate a Contractor to follow targeted hiring procedures to make reasonable efforts to achieve specific hiring opportunities for Local Residents, Apprentices and Transitional Workers:

(a) The Contractor shall retain authority in making individual hiring decisions; and

(b) Hours worked by residents of states other than California shall not be included in the calculation of total hours of Project Work for purposes of determining whether the Contractor achieved the percentage requirements set forth in the HHH-PLA authorized in this article.

### **Sec. 10.51.4. Outreach and Training**

The DAA will provide educational outreach and training to ensure that Contractors understand the requirements of the HHH-PLA, including requirements aimed at advancing job opportunities for underrepresented communities.

### **Sec. 10.51.5. Administration.**

(a) The HHH-PLA shall be administered by the DAA who shall promulgate rules and regulations to assure efficient implementation and enforcement of this article.

(b) The DAA may delegate duties to other City departments and provide for the manner in which exemptions from this article are approved and documented.

(c) The DAA shall develop the forms to be used toward implementing this article.



(d) The DAA shall investigate alleged violations and monitor compliance with this article.

**Sec. 10.51.6. Enforcement.**

If the DAA determines that a Contractor has violated this article, the DAA may recommend that the City Administrative Officer, HCIDLA or other City Council appointed project awarding authority take any of the following actions:

- (a) Withhold payments as liquidated damages pursuant to the Contract.
- (b) Terminate, suspend or cancel the Contract in whole or in part.
- (c) Declare the Contractor non-responsible from future city contracts in accordance with the Contractor Responsibility Ordinance (Los Angeles Administrative Code Section 10.40, *et seq.*).
- (d) Document the violation in the Contractor Evaluation required under Los Angeles Administrative Code Section 10.39, *et seq.*
- (e) Require that the Contractor document the violation in each of the Contractor's subsequent Contractor Responsibility Questionnaires submitted under Los Angeles Administrative Code Section 10.40, *et seq.*
- (f) Disqualify the developer from access to future City financial assistance.
- (g) Pursue any and all rights and remedies available at law or in equity.

**Sec. 10.51.7. Exemptions.**

The following Contracts are exempt from this article.

- (a) Contracts where the provisions of this article conflict with federal or state law.
- (b) Contracts with another governmental entity.
- (c) Contracts where the provisions of this article would conflict with federal or state grant funded contracts, or conflict with the terms of the grant or subvention.
- (d) Contracts awarded under urgent or emergency circumstances.

**Sec. 10.51.8. Application of this Article.**

This article shall apply to all Permanent Supportive Housing and Facilities Construction projects that receive funding from Proposition HHH bonds issued on or after July 1, 2018.

**Sec. 10.51.9. No Third Party Beneficiary.**

This article does not create beneficial interests in any person who is not a party to the Contract.

**Sec. 10.51.10. Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.**

This article shall not be construed to limit a person's right to bring legal action for violation of other laws.

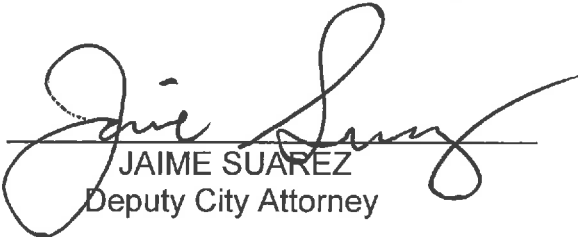
**Sec. 10.51.11. Severability.**

If a court of competent jurisdiction finds any provision of this article invalid, the remaining provisions shall remain in full force and effect.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By   
JAIME SUAREZ  
Deputy City Attorney

Date MAR 02 2018

File No. 17-0090-S1

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I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles.

CITY CLERK

MAYOR

\_\_\_\_\_

\_\_\_\_\_

Ordinance Passed \_\_\_\_\_

Approved \_\_\_\_\_